

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

TROY COLEMAN	:	CIVIL ACTION
	:	
v.	:	
	:	
C/O JOFFEE, et al.	:	NO. 98-CV-5620

M E M O R A N D U M

Ludwig, J.

February 8, 1999

Plaintiff, an inmate, has filed a pro se civil rights complaint against four correctional officers, a grievance coordinator, a hearing examiner and the Superintendent at the State Correctional Institution at Mahanoy. He is alleging that: (1) he was denied an opportunity to visit with his attorney in a private room; (2) he was falsely charged with institutional misconduct; (2) he was denied due process; and (3) he filed a grievance which was not properly investigated.

For the following reasons, the complaint will be dismissed as frivolous pursuant to 28 U.S.C. § 1915(e).

A. Denial of Private Visit With Attorney

Plaintiff alleges that, on October 19, 1997, he was denied an opportunity to visit with his attorney in a private room. He states that the ability to meet with his attorney in private, "would have given plaintiff the opportunity to his liberty and life interest." He does not allege that this one instance of being unable to confer with his attorney in private resulted in any "actual injury" to his litigation efforts which is a requirement in claims of this nature. Lewis v. Casey, 518 U.S. 343, 349-55 (1996)

(holding that the "actual injury" that an inmate must demonstrate is a hindrance to his efforts to pursue a nonfrivolous legal claim). Accordingly, he has failed to state a violation of his constitutional rights.

B. Misconduct Charge

Plaintiff's claim that he was falsely charged with institutional misconduct does not state a violation of his constitutional rights. The filing of a false or unfounded misconduct charge against an inmate does not constitute a deprivation of a constitutional right. See Freeman v. Rideout, 808 F.2d 949 (2d Cir. 1986); Flanagan v. Shively, 783 F. Supp. 922, 931-32 (M.D. Pa.), aff'd, 980 F.2d 722 (3d Cir. 1992).

C. Denial of Due Process

Likewise, plaintiff's claim that he was denied due process in regard to his misconduct charge does not state a violation of his constitutional rights. The Supreme Court has held that prison regulations on confinement of inmates do not create a liberty interest enforceable in a § 1983 action. Sandin v. Conner, 515 U.S. 472 (1995). In Sandin, the Court determined that the added restraint of prison discipline "did not present the type of atypical, significant deprivation in which a state might conceivably create a liberty interest." Id. at 486.

Applying the Sandin test, the Court concludes that punitive confinement does not impose an "atypical and significant hardship" on the plaintiff in relation to the "ordinary incidents of prison life." Sandin, 515 U.S. at 484. Instead, the possibility that a prisoner may receive this form of treatment is

the type of "hardship" ordinarily contemplated by a prison sentence. Thus, plaintiff's claim that he was denied due process at his institutional misconduct hearing fails to state a violation of his constitutional rights.

D. Investigation of Grievance

Prisoners are not constitutionally entitled to a grievance procedure, or to the satisfactory resolution of individual grievances, and the state creation of a grievance procedure does not create any federal constitutional rights. See, e.g., McGuire v. Forr, Civ. A. No. 94-6884, 1996 WL 131130, at *1 (E.D. Pa. March 21, 1996), aff'd, 101 F.3d 691 (3d Cir. 1996); see also Adams v. Rich, 40 F.3d 72, 75 (4th Cir. 1994). Therefore, the alleged failure to investigate his grievance does not state a violation of his constitutional rights.

E. Claims under 42 U.S.C. §§ 1985 (2) (3) and 1986

Plaintiff does not allege that any of the defendants' actions were motivated by racial or class-based animus or that there has been an interference with federal officials or federal court proceedings which is necessary to bring an action under 42 U.S.C. § 1985 (2) and (3). See Bray v. Alexandria Women's Health Clinic, 506 U.S. 263 (1993); Kush v. Rutledge, 460 U.S. 719, 724 (1983); Griffin v. Breckenridge, 403 U.S. 88, 102 (1971); Brawer v. Horowitz, 535 F.2d 830, 840 (3d Cir. 1976). Without a § 1985 claim, there can be no claim under 42 U.S.C. §1986. Id. at 841.

An Order dismissing this complaint as frivolous follows.

Edmund V. Ludwig, J.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

TROY COLEMAN	:	CIVIL ACTION
	:	
v.	:	
	:	
C/O JOFFEE, et al.	:	NO. 98-5620

O R D E R

AND NOW, this 8th day of February, 1999, this action is
DISMISSED pursuant to 28 U.S.C. §§ 1915(e)(2)(B), 1915A(b) for the
reasons stated in the accompanying memorandum.

Edmund V. Ludwig, J.